

**REMARKS**

Claims 7-10 and 12-13 are pending in the application. Solely in an effort to advance prosecution, claim 8 is amended and new claim 13 is added to encompass potentially infringing subject matter. Claim 11 is cancelled without prejudice or disclaimer of the subject matter it contains. By the above amendments, Applicants do not acquiesce to the propriety of any of the Examiner's rejections and do not disclaim any subject matter to which Applicants are entitled to claim. *Cf. Warner Jenkinson Co. v. Hilton-Davis Chem. Co.*, 41 U.S.P.Q.2d 1865 (U.S. 1997). Further, Applicants reserve the right to file continuing applications to cover disclosed subject matter not encompassed by the currently pending claims.

**OBJECTION TO THE DRAWINGS**

The Office Action objects to the drawings because they allegedly do not show a feature recited in claim 11 (i.e., "a cut" for the throttling tube). Without acquiescing to the propriety of this objection, Applicants have cancelled claim 11 to render the objection moot. Applicants reserve the right to reintroduce the features of cancelled claim 11 (which are described in the specification at paragraph [0018]) in an appropriate continuing application.

**SPECIFICATION HEADINGS**

The Office Action highlights that certain suggested guidelines for a "preferred layout" of the specification, which are set forth in 37 CFR 1.77(b), were not utilized in the text of the application, as filed. In response, Applicants have amended the specification to provide appropriate headings.

**REJECTION UNDER 35 U.S.C. § 112**

The Office Action rejects claim 8 under 35 U.S.C § 112, second paragraph, as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter that Applicants regard as the invention. In response, Applicants have amended claim 8 to overcome this rejection by deleting “about 10 mm” and incorporating it into new claim 13. The rejection is overcome.

**REJECTION UNDER 35 U.S.C. § 103**

The Office Action rejects Claims 7-12 under 35 U.S.C § 103(a) as allegedly being unpatentable over **Electrogeraete** (FR Publ. No. 1,516,944) in view of **Nocivelli** (EP Publ. No. 0788860). Applicant respectfully traverses this rejection.

“The test for obviousness is what the combined teachings of the references would have suggested to one of ordinary skill in the art.” *In re Young*, 927 F.2d 588, 591, 18 USPQ2d 1089, 1091 (Fed. Cir. 1991). However, “before a conclusion of obviousness may be made based on a combination of references, there must have been a reason, suggestion, or motivation to lead an inventor to combine those references.” *Pro-Mold and Tool Co. v. Great Lakes Plastics Inc.*, 75 F.3d 1568, 1573, 37 USPQ2d 1626, 1629 (Fed. Cir. 1996). “[E]vidence of a motivation to combine [references] need not be found in the prior art references themselves, but rather may be found in ‘the knowledge of one of ordinary skill in the art or, in some cases, from the nature of the problem to be solved.’” *Dystar Textilfarben GmbH v. C.H. Patrick Co.*, 464 F.3d 1356, 1366, 80 USPQ2d 1641, 1649 (Fed. Cir. 2006) (emphasis in original, quoting *In re Dembiczak*, 175 F.3d 994, 999, 50 USPQ2d 1614, 1617 (Fed. Cir. 1999)). However, “[R]ejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be

some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness." (*In re Kahn*, 441 E 3d 977, 988 (CA Fed. 2006).

In the present application, Applicants respectfully submit that the Office Action has not provided evidence of a sufficient reason, suggestion or motivation to combine the applied references arising either from the prior art, from the nature of the problem solved, or from the knowledge of one of ordinary skill in the art.

For example, the Office Action correctly acknowledges that **Electrogeraete** nowhere explicitly teaches or suggests that the weld shown at the purported "second location 45" of the device depicted in Electrogeraete's Figure 11 is an ultrasonic weld, as required by independent claim 7 and the remaining dependent claims. In an effort to remedy this deficiency, the Office Action has cited **Nocivelli** as somehow teaching the use of ultrasound welding at Column 6, line 23 to column 9 line 2.

On the contrary, Applicants respectfully submit that Nocivelli nowhere discloses or suggests welding by using ultrasounds. Rather, Nocivelli merely discloses the use of ultrasounds to generate cavitation to remove oxides from surfaces that are later welded using disclosed non-ultrasonic methodologies. *See e.g.*, Column 10, lines 47-59. The simple fact is that there appears to be no disclosure or cogent technical reasoning in Nocivelli that would lead one of ordinary skill to conclude that welding using ultrasounds, as presently claimed, would be possible or desired to replace the welding technique disclosed in Electrogeraete. Thus, Applicants respectfully submit that, alone or improperly combined, none of the applied references would have rendered the claimed invention obvious. Thus, reconsideration and withdrawal of this rejection are respectfully requested.

**CONCLUSION**

In view of the above, entry of the present Amendment and allowance of the pending claims are respectfully requested.

If anything further could be done to place the above-captioned patent application in better condition for allowance (i.e., via Examiner's Amendment), then please contact the undersigned attorney at the telephone number listed below.

Please grant any extension(s) of time deemed necessary for entry of this communication. The Commissioner is hereby authorized to charge any deficiency in the fee(s) filed, or asserted to be filed, or which should have been filed herewith (or with any paper filed hereafter) to Deposit Account No. **502786**. Please credit any overpayment of fees to such Deposit Account.

Respectfully submitted,

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